

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA (Pittsburgh)**

IN RE:

PHYLLIS J. HANEY

Debtor

**U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE, SUCCESSOR IN INTEREST TO
WACHOVIA BANK, N.A., AS TRUSTEE FOR
PARK PLACE SECURITIES, INC., ASSET-
BACKED PASS-THROUGH CERTIFICATES,
SERIES 2004-WWF1**

Movant

v.

PHYLLIS J. HANEY

Respondent

: BK. No. 18-22636-TPA
:
: Chapter No. 11
:
: Document No.
:
: Hearing Date: 09/12/2018
:
: Hearing Time: 11:00 AM
:
: Objection Date: 08/31/2018
:

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY OR IN THE ALTERNATIVE
FOR ADEQUATE PROTECTION**

/s/ Jodi L. Hause, Esquire

Jodi L. Hause, Esq., Id. No.90625

Phelan Hallinan Diamond & Jones, LLP

Omni William Penn Office Tower

555 Grant Street, Suite 300

Pittsburgh, PA 15219

Phone Number: 215-563-7000 Ext 31502

Fax Number: 215-568-7616

Email: Jodi.Hause@phelanhallinan.com

August 13, 2018

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA (Pittsburgh)**

IN RE:

PHYLLIS J. HANEY	:	BK. No. 18-22636-TPA
Debtor	:	
	:	Chapter No. 11
U.S. BANK NATIONAL ASSOCIATION, AS	:	
TRUSTEE, SUCCESSOR IN INTEREST TO	:	Document No.
WACHOVIA BANK, N.A., AS TRUSTEE FOR	:	
PARK PLACE SECURITIES, INC., ASSET-	:	Hearing Date: 09/12/2018
BACKED PASS-THROUGH CERTIFICATES,	:	
SERIES 2004-WWF1	:	Hearing Time: 11:00 AM
Movant	:	
v.	:	Objection Date: 08/31/2018
PHYLLIS J. HANEY	:	
Respondent	:	

**MOTION OF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR IN
INTEREST TO WACHOVIA BANK, N.A., AS TRUSTEE FOR PARK PLACE
SECURITIES, INC., ASSET-BACKED PASS-THROUGH CERTIFICATES, SERIES 2004-
WWF1 FOR RELIEF FROM THE AUTOMATIC STAY UNDER §362 PURSUANT TO
BANKRUPTCY PROCEDURE RULE 4001 OR IN THE ALTERNATIVE FOR
ADEQUATE PROTECTION**

Movant, by its attorney, Phelan Hallinan Diamond & Jones, LLP hereby requests a termination of the automatic stay or, in the alternative, for adequate protection and leave to foreclose on its mortgage on real property owned by Debtor.

1. Movant is **U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR IN INTEREST TO WACHOVIA BANK, N.A., AS TRUSTEE FOR PARK PLACE SECURITIES, INC., ASSET-BACKED PASS-THROUGH CERTIFICATES, SERIES 2004-WWF1.**

2. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

3. Debtor, PHYLLIS J HANEY, and Non-filing Co-Mortgagor, ALBERT H BILOTTO, are the owners of the premises located at **535 MCCAUGHTRY RUN ROAD, DARLINGTON, PA 16115 N/K/A 535 MCCAUGHTRY RUN ROAD, DARLINGTON, PA 16115-2027**, hereinafter known as the mortgaged premises.

4. Movant is the holder of a mortgage in the original principal amount of **\$232,000.00** on the mortgaged premises, that was executed on **September 9, 2004**. The mortgage was recorded on September 15, 2004, in BEAVER COUNTY in Instrument #3219797.

5. Movant has instituted foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required thereunder.

6. As of August 6, 2018, the principal balance owed on the loan is \$188,589.57.

7. As of August 6, 2018, interest in the amount of \$6,901.86 has accrued since the application of the last payment received from the Debtor. The monthly payments from April 2018 through August 2018 are \$2,486.68.

8. In addition, the following charges, fees and costs have been added to the balance of the loan and are due and owing to Movant: Late charges in the amount of \$528.34, less contractual suspense in the amount of \$27.96.

9. As of August 6, 2018, the payoff due on the mortgage is \$195,991.81.

10. Debtor has failed to tender payments for the months of July 2018 and August 2018. The monthly payments for July and August 2018 are \$2,486.68 each, less post-petition suspense in the amount of \$27.96. The next payment is due on or before September 1, 2018 in the amount of \$2,486.68.

11. As of August 6, 2018, the amount necessary to reinstate the loan, post-petition, is \$4,945.40.

12. The fair market value of the premises is \$180,000.00 based on an appraisal/BPO dated July 17, 2018. A copy of the appraisal/BPO is attached hereto as Exhibit "A" and made a part hereof.

13. There are no junior lien holders.

14. There are no liens on the premises that are senior to Movant's lien.

15. The fair market value of the mortgaged premises is \$180,000.00, less the total payoff in the amount of \$195,991.81, resulting in in equity of (\$15,991.81).

16. The foreclosure proceedings instituted were stayed by the filing of the instant Chapter 11 Petition.

17. Because a plan has not yet been filed, Movant is unaware of the Debtor's intentions with regard to the mortgaged premises.

18. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage or in the alternative to provide for an Order of Adequate Protection pending confirmation of the Chapter 11 Plan.

19. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. Modifying the Automatic Stay under 11 U.S.C. §362 of the Bankruptcy Code with respect to the mortgaged premises as to permit the Movant, its successors or assignees, to foreclose on its mortgage or take any legal or consensual action enforcement of its right to possession of, or title to, said premises (such actions may include but are not limited to the signing of a deed in lieu of foreclosure or entering into a loan modification agreement) and to allow the

purchaser of said premises at Sheriff's Sale (or purchaser's assignee) to take any legal or consensual action for enforcement of its right to possession of, or title to, said premises; and

- b. Granting any other relief that this Court deems equitable and just.

/s/ Jodi L. Hause, Esquire
Jodi L. Hause, Esq., Id. No.90625
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555 Grant Street, Suite 300
Pittsburgh, PA 15219
Phone Number: 215-563-7000 Ext 31502
Fax Number: 215-568-7616
Email: Jodi.Hause@phelanhallinan.com
Attorney for Movant/Applicant

August 13, 2018